

SANTORO WHITMIRE

10001 Park Run Drive, Las Vegas, Nevada 89145
(702) 948-8771 – fax (702) 948-8773

1 JAMES E. WHITMIRE, ESQ.
Nevada Bar No. 6533
2 jwhitmire@santoronevada.com
3 JASON D. SMITH, ESQ.
Nevada Bar No. 9691
4 jsmith@santoronevada.com
5 SANTORO WHITMIRE
10001 Park Run Drive
6 Las Vegas, Nevada 89145
Telephone: 702/948-8771
7 Facsimile: 702/948-8773

8 *Attorneys for Defendant*

10 **UNITED STATES DISTRICT COURT**

11 **DISTRICT OF NEVADA**

12 CO2 DESIGN GROUP, INC., a California
13 corporation,

14 Plaintiff,

15 v.

16 HARRAH'S IMPERIAL PALACE
17 CORPORATION, a Nevada corporation d/b/a
18 HARRAH'S IMPERIAL PALACE HOTEL &
CASINO; and DOES I through X, inclusive,

19 Defendant.
20

CASE NO.: 2:10-cv-00053-KJD-PAL

**STIPULATION AND [PROPOSED]
AMENDED SCHEDULING ORDER**

(AT REQUEST OF COURT)

21 Plaintiff CO2 DESIGN GROUP, INC. and Defendant HARRAH'S IMPERIAL
22 PALACE CORP., by and through their respective undersigned counsel, and pursuant to LR 26-
23 4(e), LR 6-1 and Fed. R. Civ. P. 26, hereby file this Stipulation and [Proposed] Amended
24 Scheduling Order as the Court requested of the parties during the hearing conducted before
25 Magistrate Judge Peggy A. Leen on February 14, 2012.¹
26

27 ¹ Given the Court's familiarity with this matter, the parties are not presenting a detailed history
28 regarding the discovery in this matter. Rather, the parties are attempting to move this case

I. Brief Procedural History

On February 14, 2012, the parties appeared before Magistrate Judge Peggy A. Leen. During this hearing, Magistrate Judge Leen specifically ordered certain depositions, and further ordered the parties to meet and confer regarding the discovery schedule for the remainder of the case. The parties have since met and conferred, depositions have occurred, depositions are scheduled to occur and the parties have agreed upon the following proposed plan for the Court's consideration. The proposed scheduling order set forth below is intended to bring this matter back on track such that the remaining discovery to be completed in this case (which is further detailed below) may be concluded within a reasonably brief time period and in a manner that allows the parties to properly prepare the case for trial.

II. Depositions Conducted Since Last Court Appearance and Currently Scheduled Plan Pursuant to Meet and Confer By the Parties:

A. Defendants' Recent Efforts and Outlined Current Discovery Plan

1. On March 1, 2012 -- within a few weeks of the previous hearing -- Defendant took the telephonic depositions, for records keeping practices purposes, of Plaintiff's witnesses Pascal Berugel and Corinne Benouaiche. As a result of those depositions, the parties have a much better understanding of Plaintiff's recordkeeping and sources of documents.

2. An inspection of the physical records for Plaintiff's business is scheduled to be conducted in Los Angeles, California on April 4, 2012.

3. The deposition of Accountant Doug Smith is scheduled to be taken in Los Angeles, California on April 5, 2012.

4. The parties are currently working on logistical arrangements to take the depositions of Elisa Baneulos, Blaise Abergel and/or bookkeeper Jennisa Klein during remaining portions of April 4 and April 5, 2012 in Los Angeles, California.

_____ (continued)
 forward without unduly repeating historical matters. To the extent the Court wishes to receive a more detailed presentation, the parties are certainly prepared to respond.

1 5. A “second wave” of depositions is scheduled to occur in Los Angeles
2 within a short time after the document inspection referenced in paragraph 2 above. The second
3 Los Angeles visit is anticipated to occur on or about April 16-17. Those to be deposed in the
4 “second wave” are Pascal Berugel, Coco Benouaiche, Plaintiff’s designated expert, Ron J.
5 Anfuso, CPA and/or any persons identified in item 4 above who are not deposed in the first
6 wave.
7

8 6. Defendant’s expert disclosures, if any, will be served on or before May 21,
9 2012, 45 days from the document inspection that is to occur on April 4, 2012.

10 **B. Plaintiff’s Recent Efforts and Outlined Current Discovery Plan**

11 1. The Rule 30(b)(6) deposition of various hotel personnel is scheduled to be
12 taken in Las Vegas, Nevada on March 30, 2012.

13 2. The deposition of Gerald Montano, a fact witness, from the Imperial
14 Palace is scheduled to be taken in Las Vegas, Nevada on March 30, 2012.

15 3. The deposition of Dwayne Livingston, a former employee of the
16 Defendant, is scheduled to be taken in Las Vegas, Nevada on March 30, 2012.

17 **C. Over Arching Discovery Cut-Off Date**

18 1. The parties have agreed to an overarching discovery cut-off date to occur
19 sixty (60) days after the disclosure of Defendants’ Expert disclosures. This date is currently
20 estimated to be July 20, 2012. Discovery that may occur, beyond that specified above, include
21 depositions of the Defendant’s designated expert, the disclosure of and/or deposition of any
22 appropriate rebuttal expert or expert opinions, any ancillary witnesses and any supplemental
23 discovery that may be needed after the depositions set forth above occur².
24
25
26

27 _____
28 ² Defendants do not concede that Plaintiff would be entitled to produce a rebuttal report or
rebuttal opinions. Plaintiff contends that there may be circumstances where a rebuttal report or

III. Proposed Formal Amendments to Scheduling Order

The parties stipulate to, and request Court approval of, the following proposed amendments to the scheduling order as follows:

Event	Date
Deadline for Defendant's Expert Disclosures	May 21, 2012 (45 days from records inspection to occur on April 4, 2012)
Deadline for Plaintiff to disclose any appropriate rebuttal expert or expert opinions	June 11, 2012 (21 days after Defendant's expert disclosure) (see FN 2)
Discovery Cut-Off	July 20, 2012
Deadline for Dispositive Motions	August 20, 2012
Deadline for Pretrial Order	September 21, 2012

Dated this 23rd day of March, 2012.

PAUL & PERKINS, P.A.

/s/ J. Scott. Murphy

J. Scott Murphy, Esq. (NBN 08197)
3117 Edgewater Drive
Orlando, Florida 32804
Attorneys for Plaintiff

Dated this 23rd day of March, 2012.

SANTORO WHITMIRE

/s/ James E. Whitmire

James E. Whitmire, Esq. (NBN 6533)
Jason D. Smith, Esq. (NBN 9691)
10001 Park Run Drive
Las Vegas, NV 89145
Attorneys for Defendant

IT IS SO ORDERED.

Dated: March 27, 2012



UNITED STATES MAGISTRATE JUDGE

(continued)

opinions may be appropriate. The parties are attempting to reserve their respective positions while concurrently submitting this proposed amended scheduling order.